

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2023

HARVEY WINDSOR,

Petitioner,

v.

STEVEN T. MARSHALL,
ATTORNEY GENERAL OF ALABAMA, et al.,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE
ELEVENTH CIRCUIT

MOTION TO PROCEED *IN FORMA PAUPERIS*

Petitioner Harvey Windsor, pursuant to Rule 39 of the Supreme Court Rules, respectfully requests leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. Below, the district court granted Mr. Windsor's motion to proceed *in forma pauperis* and appointed counsel pursuant to 18 U.S.C. § 3599(a)(2). *See* Sup. Ct. R. 39(1). The district court's order is attached as Appendix A. For these reasons, Mr. Windsor respectfully requests that this Court grant him leave to proceed *in forma*

pauperis in this Court.

Respectfully submitted,

/s/ James M. Hubbard

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March 28, 2024

Counsel for Harvey Windsor

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

HARVEY WINDSOR,

Petitioner,

vs.

RICHARD ALLEN, Commissioner of the
Alabama Department of Corrections; and the
ATTORNEY GENERAL OF THE STATE
OF ALABAMA,

Respondents.

Case No. 4:10-cv-2223-AKK-TMP

ORDER

This cause came before the court for hearing on three motions by the petitioner. On August 17, 2010, the petitioner filed the instant petition for writ of *habeas corpus*, accompanied by his application for leave to proceed *in forma pauperis* (Doc. 2), his motion to appoint Hon. Charles Flowers to represent him as counsel (Doc. 4) , and his motion to stay proceedings in the instant case until his has completely exhausted his state court remedies (Doc. 3). On September 13, 2010, petitioner supplemented his application for *IFP* status (Doc. 6) by offering his sworn affidavit concerning his income and assets to show his indigency. These motions were referred to the undersigned by the district judge.

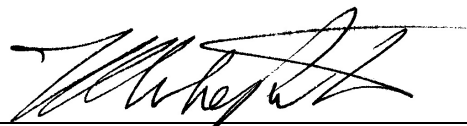
The court concludes that the motion for leave to proceed *in forma pauperis*, as supplemented, (Docs. 2 & 6) is due to be and hereby is GRANTED. Although the supplement to the motion reveals that petitioner received into his Prisoner Money on Deposit (“PMOD”) account anywhere from \$120 to \$434 per month over the last year, it is clear that he owns no significant cash, bank accounts, or physical assets. He has been in prison for twenty years, with no source of income other than gifts

from his family. Although it is probably true that he can afford pay the \$5.00 *habeas* filing fee, it is also equally true that he is not capable of paying in other ordinary litigation expenses that will arise.

Petitioner's motion for appointment of Charles A. Flowers, III, as his counsel is GRANTED. Mr. Flowers has practiced primarily criminal law since 1992, and has tried scores of felony cases. He has tried 4 or 5 capital cases and has handles the appeals of about 12 capital convictions. He previously litigated a capital *habeas* petition in this court in Eugene Christopher Brooks v Donal Campbell, Case No. 2:05-cv-02357-SLB-RRA. He was recruited by the Equal Justice Initiative to handle this case. Thus, pursuant to 18 U.S.C. § 3599(a)(2), the Hon. Charles A. Flowers, III, is appointed as counsel for petitioner in the above styled cause. Additionally pursuant to the above-referenced provision, the Clerk is DIRECTED to draw from the names of Tier One (Complex) attorneys on the court's Criminal Justice Act Panel the name of one additional attorney willing to take appointment as co-counsel for petitioner, and such attorney is hereby appointed co-counsel in this matter. The Clerk shall issue such vouchers as necessary for the attorneys to be compensated at the statutory rate provided in § 3599(g)(1).

Finally, petitioner's motion for stay and abeyance of this action while he completes exhaustion of his presently-pending state court remedies (Doc. 3) is GRANTED. Proceedings in this action are hereby STAYED until such time as either party notifies the court that all available state remedies have been exhausted.

DONE this the 26th day of October, 2010.

A handwritten signature in black ink, appearing to read 'T. Michael Putnam', is written over a horizontal line.

T. MICHAEL PUTNAM
U.S. MAGISTRATE JUDGE